

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

NO. 4:06CR00055-02 JLH

ARIZONA LOGAN

DEFENDANT

ORDER

Arizona Logan has filed a motion to alter or amend the judgment denying his petition to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Part of Logan's argument is based on Rule 8(c) of the Rules Governing Section 2255 Proceedings. Rule 8(c) provides that if an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A. In this case, the Court determined that a hearing was warranted. Logan qualified to have counsel appointed under 18 U.S.C. § 3006A. However, the Court failed to appoint counsel for him.¹

Because the Court failed to comply with Rule 8(c), Logan's *pro se* motion to alter or amend the judgment is GRANTED (Document #100), and the Opinion and Order, entered as Document #97 on April 29, 2009, and the Judgment entered that same date as Document #98, are hereby set aside. Logan's *pro se* motion to appoint counsel is GRANTED. Document #103. Danny W. Glover is hereby appointed to represent Logan in this proceeding. Because appointed counsel can request a copy of the transcript and move for appointment of an expert to be paid pursuant to the Court's CJA Plan, Logan's *pro se* request for the transcript and for appointment of expert is denied as moot.

¹ Logan did not move for appointment of counsel, but neither did he expressly waive the right to have counsel appointed, and the Court overlooked Rule 8(c).

Because the judgment is being set aside, Logan's *pro se* motion for certificate of appealability is denied as moot. Document #101.

IT IS SO ORDERED this 3rd day of June, 2009.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE